



CITY OF SNOHOMISH

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PLANNING AND DEVELOPMENT SERVICES DEPARTMENT REPORT TO THE HEARING EXAMINER FINDINGS OF FACT AND RECOMMENDED CONDITIONS

Project File Number: 17-13-CUP **Project Name:** CD Trust Conditional Use Permit

Request: Approval of a **Conditional Use Permit (CUP)** to establish a Senior Assisted Living Facility in a Single-Family Residential Designation

PROPONENT/CONTACT:

PROPONENT:

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Hearing Date, Time, and Place: February 26, 2014 at 1:30 PM
Eldon Harvey Auditorium,
Snohomish Fire District
1525 Avenue D, Snohomish, WA

Location: The site is generally located at the NW corner of Fourth Street and Avenue E, in Snohomish, WA, on Snohomish County tax parcels 28051300110300, 00444500200300 and 28051300103000.

Land Use Designation: Single Family Residential

Application Complete: December 23, 2013

Date report transmitted to Hearing Examiner: February 19, 2014

Staff report author: Duane Dvorak, Senior Planner

Contributing staff to this review:

- Owen Dennison, Planning Director
- Yosh Monzaki, City Engineer
- Andrew Sics, Project Engineer
- Sharon Pettit, Building/Fire Official

A. FINDINGS

1. Requested action and primary City Code governing the review of the application

The site consists of two legal lots, encompassing three (3) tax parcels. This requested action is for the approval of a Conditional Use Permit to allow a Senior Assisted Living Facility (ALF) at 402 Avenue E. 410 Avenue E is also included within the scope of the review because a substantial portion of the off-street parking requirement in support of use proposed for 402 Avenue E is planned to be located on 410 Avenue E by the use of a parking easement.

This request is similar to prior Case 19-08-CU which was approved in 2008 but which expired on December 2, 2010. That expiration was appealed to the Hearing Examiner in Case HEA-2013-01 which on August 6, 2013 denied an appeal to reverse the expiration of CUP 19-08-CU. In the prior CUP case, the applicant provided an “elderly” and “frail elderly” description of the resident clients for the proposed assisted living facility use. Information of that sort is not included with this application so the analysis will differ from the prior review in that there are no assumptions from the approval of the prior case which will carry over into this case and this case will be analyzed as a separate and distinct case from the prior CUP 19-08-CU.

In reviewing this case, it is important to distinguish between the ownership of the property and the proposed use of the property. Land use regulations are intended to regulate the use of the land and related characteristics of use and the staff analysis approaches the review on this basis. A conditional use, as defined in SMC 14.100.020, is a use that is allowed on a property only after review by the Hearing Examiner and with approval of a permit, subject to conditions as necessary to make the use compatible with other permitted uses in the same vicinity and designation.

A conditional use should be distinguished from a prohibited use, as described in SMC 14.207.050, which would require a change of land use designation or a code amendment in order to be allowed under a specific land use designation. As a conditional use, this request is required to be reviewed as a Type 6 Permit under SMC 14.50. The standards for the review of a conditional use are established in SMC 14.65.020. Definitions which may have special meaning in the context of the code are established in SMC 14.100 and include but are not limited to: Conditional Use, Family, Community Residential Facility, Nursing and Personal Care Facility.

The proposed use for Senior Assisted Living Facility appears to be consistent with “Senior Citizen Assisted”¹ and “Community Residential Facility – CRF” which are both indicated to be conditional uses in the land use table for Single Family Residential (SMC 14.207.070). Staff believes that the designation “Senior Citizen Assisted” in the land use table is equivalent to the State of Washington definition of “Assisted Living Facility” (ALF) as established in RCW 18.20.020(2)². The staff recommendation in

¹ 14.100.020 SMC (Definitions) does not define “Senior Citizen Assisted”, however there is a definition of “Community Residential Facility”.

² “Assisted living facility” means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well being of residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. “Assisted living facility” shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

this case includes a suggested condition of approval that would make this relationship binding on the proposed land use going forward, subject to the approval of the Hearing Examiner. This would ensure that the Senior Assisted Living Facility use is permitted only as requested in the application materials and that the use of the site will not be as a Community Residential Facility featuring counseling or transitional living services. That would be a substantially different use from the Senior Assisted Living Facility that was requested in the application submittal.

The applicant proposes a 25-bed Senior Assisted Living Facility consisting of a mixture of single and double occupancy rooms. (Exhibit 1) As proposed, the facility would feature a common dining area, multi-use entertainment room, and a shared computer room. As a use regulated by the State of Washington under RCW 18.20 and Chapter 388-78A WAC, staff suggests relying on the licensing requirements of the state, and it's relevant agencies tasked with monitoring such uses, for compliance with those applicable regulations. The analysis here is primarily focused on the characteristics of the land use under the applicable provisions of the Snohomish Municipal Code, including but not limited to such things as off-street parking, traffic generation, building setbacks, bulk and height requirements, etc.

The fact that the applicant has indicated in the narrative that the structure will have a single dining facility supports the notion that the structure is intended to be used like a single-family dwelling. The kitchen and dining area are typically the defining characteristic when determining what is a single-family dwelling and what is a multiple-family dwelling. Having a single kitchen and dining facility also appears to be consistent with the definition of an Assisted Living Facility (ALF) in RCW 18.20.020(2). For the sake of clarity a recommendation in this case is to condition an approval upon the specific limitation of the use proposed to a single kitchen and dining area as described in the application.

The definition of family in SMC 14.100.020 specifically exempts unrelated persons with a disability or otherwise protected by the Federal Fair Housing Act (42 U.S.C. 3601 et seq.) from being viewed differently from a family of members related by blood or marriage. For families related by blood or marriage there is no maximum number of occupants allowed to occupy a single-family dwelling unit. This definition of family exempts domestic servants housed on the premises from being counted as unrelated occupants, however the proposed staff of an Assisted Living Facility would not be considered to be domestic servants and would normally be excluded from the definition of a "resident" in a licensed ALF under RCW 18.20.020(10). It should be clarified in the approval that there will be no unlicensed rooms in the ALF for the residential use of staff or for other non-resident use.

It may be relevant to note that the definition of Assisted Living Facility under the state law is not age restricted by definition. This is probably intentional in order to comply with the Federal Fair Housing Act of 1988, as amended (FFHA). Although the applicant has proposed a "Senior" Assisted Living Facility, staff does not recommend making this facility age restricted by condition of approval as this may not be defensible for the operator of the ALF if challenged under the FFHA. The FFHA is also cross referenced in RCW 35A.63.240³, which prohibits communities from treating facilities for persons with handicaps⁴ differently from similar residential structures occupied by a family or other unrelated individuals. In this regard the definition of family in SMC 14.100.020 equates a family of persons related by blood or marriage, with unrelated persons who are qualifying under the FFHA.

³ RCW 35A.63.240 Treatment of Residential Structures Occupied by Persons With Handicaps. No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing act of 1988 (42 U.S.C. Sec. 3602)

⁴ The term "handicap" defined in the FFHA is equivalent to the definition of "disability" in the Americans with Disabilities Act (ADA).

The definition of handicap in the FFHA may include disabilities other than those relevant to a Senior Assisted Living Facility. Because the petitioner has proposed an Assisted Living Facility for this CUP and assuming that this use will be tied to the definition of Assisted Living Facility established in RCW 18.20.020(2), not all qualifying persons under the FFHA are specifically permitted under this CUP. For example a Community Residential Facility for transitional housing or counseling of persons not eligible to reside in an Assisted Living Facility would comprise a substantially different land use request that is beyond the scope of this review.

2. Common and Legal Property Description

The site is generally located on the NW corner of Fourth Street and Avenue E, Snohomish, WA, on Snohomish County tax parcels 28051300110300, 00444500200300 and 28051300103000. The site is located within Section 13, T28N, R05E, Willamette Meridian

3. Comprehensive Plan Policies applying to the request

The City of Snohomish Comprehensive Plan Goals and Policies (provided as Attachment A to this report) have particular relevance to this proposal, and are incorporated herein by reference.

4. Land Development Regulations (Title 14 SMC) applying to the request

The following provisions of the Snohomish Municipal Code (SMC) have particular relevance to this proposal. All provisions of the SMC are incorporated herein by reference:

Chapter 14.50 SMC, Type 6 (Conditional Use Permits)

Chapter 14.65 SMC, Amendments to the Development Code's Land Use Designation Map, Conditional Use Permits, and Recorded Development Plans

Chapter 14.82 SMC, Non-Conforming Structures

Chapter 14.95 SMC, Hearing Examiner

Chapter 14.100 SMC, Definitions

Chapter 14.205 SMC, Permitted Land Uses

Chapter 14.207 SMC, Land Use Tables

Chapter 14.210 SMC, Dimensional and Other Requirements

Chapter 14.215 SMC, Subdivisions

Chapter 14.230 SMC, Design Standards Outside the Historic District

Chapter 14.235 SMC, Off-Street Parking, Loading and Access Requirements

Chapter 14.240 SMC, Landscaping, Screening, Fencing, and Retaining Walls

Chapter 14.295 SMC, Traffic Impact Fees and Mitigation

5. General Property Information

Existing Land Use	
Subject Development Site	Unoccupied single-family home and former nursing home/private school
Property to North	Single family residence
Property to South	Single family residence
Property to East	Single family residences
Property to West	Single family residences

Comprehensive Plan Land Use Designation / Zoning	
Subject Development Site	Single Family
Property to North	Single Family
Property to South	Single Family
Property to East	Single Family
Property to West	Single Family

Existing Vegetation	
Subject Development Site	Lawn and ornamental landscaping

6. Public Comment:

Twenty-one letters and emails have been received commenting on the proposal. (Exhibits 2 through 21 and 37) Several staff replies and a meeting invitation extended by the applicant to residents of the area are also included as part of this report. (Exhibits 22 through 25) Because the proposed conditional use has received a great deal of concern from the public, staff has listed all of the persons named in the comment letters as “Parties of Record”⁵. (Exhibit 26) Staff has also added names to the list of persons expressing concern about the this same property in regards to a recent code amendment proposed by the developer to allow multiple-family residential use at this same site. Additional named parties were added from the record of the January 7, 2014 City Council Meeting who appeared under public comments to speak to this current request for CUP to allow Senior Assisted Living Facility at 402 Avenue E.

The comments received for this case covered a wide range of concerns with the proposed use. Several common concerns were reflected however, as summarized below:

- Traffic generation related to visitors, staff, deliveries, support service vehicles;
- On-street parking related to visitors, staff, deliveries;
- Density of the use, number of residents and staff;
- Association of the proposed use with the recent “Apodment” issue and the delays; associated with enacting code changes requested by a citizen group;
- Illumination of parking areas and entryways;
- Reduction of surrounding property values;
- Noise;
- Building design incompatible with surrounding single-family uses;
- Potential adverse impacts on City services and infrastructure; and
- Outdoor employee smoking areas.

⁵ “Party of Record” is defined in Section 1.1 of the Hearing Examiner Rules of Procedure as established in City of Snohomish Resolution 1252. “Party of Record” means A. A person who has testified at the open record hearing on the application and signed an official register requesting notice of further action; B. The applicant, or applicant’s representative; C. The property tax payer as identified by the records available from the Snohomish County assessor’s office; D. A person submitting written testimony about a matter pending before the Hearing Examiner, excluding persons who have only signed petitions or mechanically produced form letters; E. The City’s administrative staff; or; F. A person who files a written request for a decision.

Additional concerns were expressed about timing and procedural issues. In response to a concern about inadequate time for public comment, staff coordinated with the Hearing Examiner to reschedule the hearing for this case to allow additional time for comments and preparation. (Exhibit 36). Staff also listed everyone who commented on this case as a “Party of Interest”. (Exhibit 26)

A second concern was expressed about the daytime scheduling of the hearing and how this might affect public access to the proceedings. Staff could find no guidance in code or bylaws to suggest a preferred meeting time or schedule other than through coordination with the Hearing Examiner. Those concerns have been carried forward in the record for this case and staff defers to the Hearing Examiner regarding the adequacy of the daytime hearing in this case. In terms of considering a pre-emptive schedule change however, staff felt that this would be inconsistent with past practice and so did not forward this particular request for a evening meeting to the Hearing Examiner in advance of the hearing.

Staff has not addressed the concern about property values in this case. The issue of property values is an area requiring special expertise, understanding and factual information that would typically fall outside the scope of a CUP review. Any development has the potential to affect property values, positively or negatively, but the purpose of this review is to ensure compliance with code standards and to address reasonable concerns with appropriate conditions of approval.

7. Existing site and improvements

The 0.52 acre site is generally flat and contains a principal structure that was a former single family residence that has been expanded to function as a nursing home under a prior conditional use permit. Following the nursing home use, the structure was used as a private school and day care facility under a second conditional use permit. A brief overview of site history is provided in the applicant’s narrative submittal. (Exhibit 1) This structure has been unused for a number of years and shows evidence of disuse, such as broken windows, blocked doorways and extensive scaffolding and blue tarps as temporary protection for a building remodel that has been left incomplete. (Exhibit 27)

The site also includes a detached single-family home to the north. According to a boundary line adjustment (BLA) recorded in 1989, the dwelling and the proposed assisted living facility are considered to be on one parcel for the purposes of construction, land use, and utility codes. (Exhibit 35) The site was approved for a second BLA in 2008 that was intended to establish the detached residence on a separate lot. (Exhibit 28) Staff could find no evidence that the approved BLA has been recorded. Without a recorded BLA, the single-family structure may constitute a second dwelling on one parcel in the Single Family designation, which would conflict with the permitted uses for the designation in SMC 14.207.070.

Existing site improvements include a small unpaved parking lot at the north end of the site that served the prior conditional uses, pedestrian access ways from the sidewalk on Avenue E to both structures, and a combination of fencing and landscaping along Avenue E. The detached single family structure has a separate driveway between the home and the north property line.

The larger structure is non-conforming with respect to rear yard setbacks. The structure meets the street setbacks of 20-feet and 10-feet for primary and secondary street sides. A portion at the rear of the principal structure encroaches onto the alley right-of-way and does not meet the required 20-foot rear yard at any point on the west façade. On the north side, the setback is measured from the south boundary of the northernmost standard platted lot, per the existing boundary line adjustment. (Exhibits 1 and 35) Pursuant to Chapter 14.82 SMC, a non-conforming structure may be maintained and repaired provided the exterior dimensions, as they existed on the date of the non-conformance, are not increased. The applicant does not propose to enlarge the principal structure and instead will remove a portion of the

principal structure at the southeast corner in order to accommodate expanded parking area in support of the proposed Assisted Living Facility use.

Adjacent Avenue E and Fourth Street frontages are currently improved with curbs, gutters, and sidewalks. However, the adjacent 16-foot wide public alley is not paved. Section 14.295.050.H SMC requires frontage improvements for all development in accordance with City standards, which include paving.

8. Proposed building and site improvements

The applicant proposes to develop the alley to city alley standards. The play equipment in the front yard will be removed and the area will be re-landscaped. The portion of the principal structure that encroaches into the alley will be removed in order to create additional parking area at the southeast corner of the structure. The proposed parking area at this location will also be provided with landscape screening as shown on the site plan. (Exhibit 1) A screened garbage enclosure is also proposed at the rear of the principal structure.

The applicant also proposes to complete the exterior remodel of the principal structure in a manner consistent with “Snohomish Design Standards”. (It is noted in the applicant’s response to CUP Standard #2 that the portion of the principal building at the corner of Fourth Street and Avenue E is an historic structure. The two statements taken together tend to support a conclusion that the applicant intended to reference the Snohomish “Historical District Design Standards”, although the site is outside the boundaries of the Snohomish Historic District. As a point of clarification staff recommends a condition of approval to require the exterior building details to be consistent with the Snohomish Historic District Design Standards.)

The applicant proposes to develop paved off-street parking for 13 vehicles, including one van accessible parking space that is compliant with the Americans with Disabilities Act (ADA).

9. SEPA Review

A SEPA checklist submitted by the applicant was reviewed by staff and a Determination of Non-Significance (DNS) was published on February 1, 2014. The comment and appeal period were established to run concurrently and the deadline for each is established to be February 18, 2014 due to the typical deadline date established under code falling on a non working days. (Exhibits 29 and 34)

10. Design Review

Requirements for design review for development outside the Historic District overlay are established in Chapter 14.230 SMC. The proposal does not meet the exemptions from review in SMC 14.230.040. However, The *Design Standards and Guidelines (Outside of the Historic District)* state that the document applies to all development and redevelopment within the Commercial, Industrial, Mixed Use, Business Park, Low-, Medium-, and High Density Residential designations. Within the Single Family designation, the Design Standards and Guidelines apply only to Planned Residential Development and developments proposing lots less than 7,200 square feet. Therefore, the proposal is not subject to a review for consistency with the *Design Standards and Guidelines (Outside of the Historic District)*. However, conditional use criterion 2, addressed below, allows separate design review of the building.

11. Parking

Existing parking access occurs via the alley along the west property line. The primary parking area is located on the rear portion of 410 Avenue E, which contains sufficient dimensions for five (5) standard parking spaces and one (1) handicap van accessible parking space. SMC 14.235.090 allows off-street parking to be provided off-site if it is located within an appropriate distance from the building served by the parking. Subsection B states, "Parking facilities for all hospitals, sanitariums, homes for the aged . . . shall be located not more than two hundred (200) feet from the building they serve." All space proposed to meet the parking requirements of the assisted living facility are located within 200 feet of the structure. According to SMC 14.236.080B, a legally drawn easement agreement is required for off-site parking spaces to ensure the availability of the parking for the uses involved. The easement must be recorded prior to the initiation of the proposed use.

The minimum aisle width for the five (5) perpendicular parking is 24-feet, which may intersect with the van loading area for the handicap van accessible space. A condition of approval would be to clearly identify the dimensions of the handicap van accessible space on a revised site plan and to mark the van loading area on the pavement with appropriate striping and signage. The potential turning and maneuvering conflict may also be minimized through the designation of additional compact car off-street parking spaces as it does not appear from the site plan that the maximum number of eligible compact car spaces are designated on the site plan. (Exhibit 1)

An existing one-stall garage is located within the building at the south end of the property. This garage and a portion of the existing house are proposed for demolition which will provide additional off-street parking for four (4) cars. Two of those new spaces will be designated for compact car use which allows a slightly shorter parking stall length. The remaining three (3) off-street parking spaces will be parallel parking spaces located along the west side of 410 Avenue E, between the alleyway and the main structure.

Off-street parking standards are contained in Chapter 14.235 SMC. Required off street parking is regulated according to the land use served. In this instance, the proposed use is identified in the land use tables in Chapter 14.207 SMC as Senior Citizen Assisted. However, Chapter 14.235 SMC does not list Senior Citizen Assisted as a use with an associated parking standard. The most comparable use listed in the parking standards is Community Residential Facility, defined in Chapter 14.100 SMC as "living quarters meeting applicable federal and state standards that function as a single housekeeping unit for eight or more individuals excluding staff, providing such supportive services as counseling, rehabilitation, and medical supervision, excluding drug and alcohol detoxification and prisoner release participants." The parking standard for Community Residential Facility is one space for every two employees on maximum shift.

The applicant makes reference to the parking standard associated with Community Residential Facilities under 14. 235.170 SMC. This standard establishes a limit on parking that is not related to the proposed resident occupancy, but instead ties the parking standard to the staffing at one (1) off-street parking space for every two (2) employees on the maximum shift. This ratio should not be taken literally such that only staff are entitled to park on the site. Parking calculations are based upon many variables. The maximum number of staff that could theoretically work on a single shift given the 13 off-street parking spaces proposed would be 26 employees. The applicant has indicated that the number of employees on the maximum shift will be 12. Staff recommends that this number provided by the applicant be incorporated as a condition of approval to ensure that any increase in staffing beyond this number will require a formal amendment to the CUP through a new Hearing Examiner process.

Even though the proposed use may comply with the minimum off-street parking standards, the use should not place an undue burden on the public streets around 402 Avenue E. In order to validate the number of parking spaces proposed for this use, staff consulted with the publication Parking Generation, 3rd Edition, Institute of Transportation Engineers (ITE), 2004. (Exhibit 30) The Assisted Living parking rates show that the largest peak day for an Assisted Living Facility is typically Saturday, with a parking generation of .42 vehicles per dwelling unit. Assuming that each bed in the proposed ALF is equivalent to a dwelling unit (for the purposes of making a calculation), the maximum number of parking spaces required on that day would be eleven, which is rounded up to the next whole number from the actual product of ten and a half. According to ITE estimates, weekdays and Sundays would require substantially fewer off-street parking spaces on average. The proposed parking supply is anticipated to address the estimated demand without creating on-street parking impacts for the neighborhood, provided that residents do not own vehicles.

The prospect of on-street parking generation as a result of the proposed use has been a strong concern expressed by the residents of the surrounding area. Compliance with the parking code is no guarantee that additional parking demand won't be placed on the limited curbside parking available in the area. Incidental on-street parking is allowable in this area. Staff notes that Avenue E and Fourth Street abutting the subject properties are in a permit controlled area that is restricted to permit parking only between the hours of 8AM and 4PM daily. The proposed use is eligible to receive two parking permits or one for each licensed driver living at the address (SMC 11.10.030).

A boundary line adjustment (BLA) to divide the single family dwelling on 410 Avenue E from the proposed Senior Assisted Living Facility on 402 Avenue E was initiated as a result of the minor variance and conditional use permit granted in 2008 (19-08-CU). The site plan shows a boundary line between the two parcels but it does not appear that the BLA was properly recorded. Perfecting the BLA should be a condition of approval for this case. In addition, the applicant has proposed an easement for the rear of 410 Avenue E in order to accommodate the six (6) proposed off-street parking spaces to be located along the alley behind the single-family dwelling. Staff recommends a condition of approval to produce an easement document that shows exclusive parking rights to serve 402 Avenue E, so that it will be clear the parking area does not serve a joint parking arrangement with the SFR on 410 Avenue E.

12. Landscaping

The site includes trees meeting the definition of "significant trees" in Title 14 SMC, that are located in the front yard of 402 Avenue E. The site plan indicates only that a existing playground equipment will be removed and the yard re-landscaped. When approved for removal, significant trees must be replaced in an appropriate manner and in accordance with an approved landscape plan (SMC 14.240.030). A complete landscape plan has not been submitted to date. SMC 14.240.040 requires conditional uses to install street trees. The site currently has some street trees adjacent to the frontage.

The only landscaping improvement on the site plan is indicated between the south parking area and the adjoining sidewalk. Staff noted during a field visit that blackberry vines are colonizing along the edge of a concrete path leading off of the southern sidewalk. Presumably those vines will be removed once the facility is put into service. In any event, the blackberry vines should not be allowed to encroach into the public sidewalk or right-of-way.

13. Analysis of the proposed conditional use permit

The criteria for conditional use permit approval is specified by SMC 14.65.020B. Staff's evaluation of the project follows each criterion:

1. *Adequate streets, sidewalks, transit stops, open spaces, parks, schools, water, sewer, and stormwater facilities shall be available to the proposed development.*

With the exception of the alley west of the site, the City Engineer has determined that streets and utilities serving the site are adequate. Avenue D, one block east of the site, is served with transit routes. There are two public parks within a five-block radius of the site, although the residents are anticipated to have a minimal demand for park services. Assisted living facilities are exempt from the City's park impact fee. Adequacy of schools does not apply to this conditional use application.

2. *The design and appearance of the structure shall be compatible with surrounding developments that are in conformance with the land use designation.*

The applicant has indicated through the site plan and associated narrative (Exhibit 1) that the historical portion of the principal structure would be restored and the balance of the building would be renovated and completed in a manner consistent with the surrounding single-family residential structures. The applicant narrative states that the "Snohomish Design Standards will be used in exterior detailing. The building elevations submitted with the CUP application were those approved in association with the building permit application for the 2008 CUP. It is not clear whether the applicant intends to construct the improvements shown on the elevations or an alternative plan. Staff recommends that the conditions of approval clarify that the design of the structure shall be consistent with the residential standards in the Snohomish Historic District Design Standards.

Playground equipment and associated landscaping that remains from the prior Montessori school use will be removed and the area will be re-landscaped. A proposed parking area at the southwest corner of the site will be provided with landscape screening. All parking spaces are oriented in such a way that headlights should not be shining into nearby residential structures. The demolition of a portion of the principal building to allow for the creation of four (4) additional off-street parking spaces will remove a building encroachment from the 16 foot wide alley right-of-way.

3. *The development shall be consistent with the Comprehensive Plan.*

The subject property is designated Single Family on the Comprehensive Plan Land Use Map. Attachment A contains the Comprehensive Plan policies that are relevant to this project. The Comprehensive Plan states that the Single Family designation is intended to "allow for the retention and development of stable single family neighborhoods with individual character and identity." (Policy SF 4.1) Single-family areas should have the following characteristics: "quietness, privacy, safety, and land use stability and compatibility." (Goal LU 4) Uses similar to the type proposed were determined to be consistent with the intent of the designation Policy SF 4.11 states, "Maintain a practice that senior housing be permitted in close proximity to urban centers and transportation systems." As noted, the site is one block from bus transit on Avenue D, although residents may not have a need for public transit services. Other applicable policies direct/address/encourage [fair and equal access to housing, re-use of buildings, provision of

adequate infrastructure capacity, etc.]

4. *The development shall mitigate any significant adverse environmental impacts.*

The significant adverse impacts anticipated by the surrounding community are primarily density, noise, lighting, on-street parking, and additional traffic. (Exhibits 2 through 21) Estimated peak parking demand generated by staff, family and friends falls within the number of parking spaces proposed in support of the Assisted Living Facility as indicated in Parking Generation, 3rd Addition, Institute of Transportation Engineers (ITE), 2004. (Exhibit 30)

Due to the proximity of Snohomish High School, the site is located within an area subject to parking permits that are required during school hours. Two visitor permits are issued to each address or one to each licensed driver within the regulated area. (SMC 11.10.030) Excluding driveways and accounting for setbacks from the intersection, the alley, and driveways, the site has sufficient frontage to accommodate nine (9) standard on-street parking spaces, although on-street parking cannot be used to achieve off-street parking requirements.

The applicant has committed to limiting the size of delivery vehicles and the hours during which deliveries will occur. (Exhibit 1)

Exterior light fixtures will be provided. According to the SEPA checklist submitted in support of the proposal, shielded light fixtures will be used in the parking areas. (Exhibit 29)

5. *Concurrency requirements (SMC 14.55.030) shall be complied with.*

The Institute of Transportation Engineers (ITE) Manual, 7th Edition, estimates that a 25-bed senior assisted housing facility would generate 8.75 p.m. peak hour trips. SMC 14.55.030 states that the City Planner may exempt from concurrency review projects that generate fewer than ten peak hour trips. According to the City's Public Works staff, there are no known level of service issues with intersections in the vicinity of the site.

All conditional uses are subject to payment of an impact fee or construction of street improvements which offset the traffic impact of the development for "direct traffic impacts of any development on the capacity of all intersections, arterials and non-arterials in the street system identified as needing future capacity improvements in the currently adopted Transportation Element". (SMC 14.295.040I; SMC 14.295.050E) "Direct traffic impact" means any new vehicular trip added by new development to the City street system. (SMC 14.295.040J) The City Engineer and the City Planner have determined that the proposed re-use of the existing structure will not add vehicle trips to the City's transportation network that were not previously accounted for in calculating the City's projected capacity needs. In other words, trip generation associated with prior use of the site is credited toward trips generated by the proposed use. The proposed use is determined to generate fewer trips than past uses. Therefore, no traffic impact fee payment is required for concurrency.

6. *The development shall be consistent with the health, safety, and general welfare.*

The development must comply with applicable land use, environmental, and building regulations, as well as the City of Snohomish Public Works Department Design and Construction Standards. The engineering standards will ensure that the alley and other infrastructure improvements are designed and constructed in an appropriate manner. Compliance with the International Building Code and the City's engineering standards will ensure that building construction will meet City codes.

Compliance with state regulations pertaining to the licensing and operation of Assisted Living Facilities will also ensure that the use is conducted in a manner that best serves the needs of the residents.

B. CONCLUSIONS

With imposition of the conditions of approval specified below, the 25-bed Senior Assisted Living facility would be consistent with the City's development regulations and Comprehensive Plan.

C. RECOMMENDATION

The City Planner recommends the Hearing Examiner approve the conditional use permit to establish a senior assisted living facility with a maximum resident population of twenty-five (25) on the subject property subject to conditions.

1. Occupancy of the Assisted Living Facility shall be limited to persons who are protected from housing discrimination under the Federal Fair Housing Act of 1988, as amended, by virtue of a disability or who are otherwise protected under the act. A change in client type or increase in the number of residents shall require approval of a new conditional use permit.
2. The Assisted Living Facility shall be operated in a manner consistent with the definition of Assisted Living Facility RCW 18.20.020(2), and the facility will be operated under a license from the State of Washington in compliance with WAC 388-78A.
3. The Assisted Living Facility shall only have one (1) kitchen and dining facility. This limitation shall not restrict the residents from taking meals in their rooms, but there shall be no meal preparation allowed in resident occupied rooms, administrative offices or other service areas.
4. Prior to issuance of a certificate of occupancy, the applicant shall implement an approved landscape plan that shall include, at a minimum, evergreen screening for the parking areas adjacent to Fourth Street and within the right-of-way along both Avenue E and Fourth Street frontages; to include the identification of existing trees to be removed and the type and location of proposed replacement trees.
5. There will be no unlicensed rooms on the premises for occupancy by staff or offered to non-residents of the Assisted Living Facility.
6. Prior to initiation of the Assisted Living Facility use, record a Boundary Line Adjustment (BLA) that will bifurcate 402 Avenue E from the single-family residence on 410 Avenue E.

7. Prior to issuance of a certificate of occupancy, the alley adjacent to the site shall be improved to City alley standards.
8. Prior to issuance of a certificate of occupancy, a gated, screening enclosure for trash and recycling collection shall be constructed and approved by the City.
9. Prior to issuance of a certificate of occupancy, all applicable fees, including administrative and permit fees shall be paid.
10. Prior to issuance of a certificate of occupancy, an easement providing exclusive use for parking in support of 402 Avenue E will be recorded for 410 Avenue E as indicated on the site plan and in application submittals.
11. Confirm compliance with all parking lot standards regarding the handicap accessible parking space and van loading area to be located on 410 Avenue E.
12. Shifts shall be staggered so that the maximum number of staff/employees of the Assisted Living Facility on site at any given time shall not exceed 12.
13. Restoration and improvements to the structure located on 402 Avenue E shall be consistent with the residential standards of the City of Snohomish Historical District Design Standards.
14. Deliveries to 402 Avenue E shall use an on-site loading zone and shall be limited to the hours between 8:00 AM and 4:00 PM and at no time shall block the alley behind the principal structure. Delivery vehicles shall be limited to box vans, with no semi-trucks or trailers.

**Attachment A – 17-13-CUP
CD Trust – Conditional Use Permit**

**Relevant Goals and Policies
City of Snohomish Comprehensive Plan**

HOUSING GOALS AND POLICIES

GOAL HO 1: **Maintain a standard of promoting safe and sanitary housing so that housing is available for all economic sectors of the population and those with special needs.**

Policies:

HO 1.6: Maintain a practice that continues to promote fair and equal access to housing is available to all persons regardless of race, color, religion, gender, sexual orientation, age, national origin, familial status, source of income, or disability.

GOAL HO 3: **Maintain a standard that promotes the design and scale of new residential development that is in character with the existing community characteristics and visions for quality development.**

GOAL HO 8: **Maintain a Standard that improves the appearance of Snohomish through urban design and neighborhood planning.**

ECONOMIC DEVELOPMENT GOALS AND POLICIES

GOAL ED 4: **Maintain a standard that identifies and conserves physical capability/suitability of the community's economy.**

Policies:

ED 4.4: Existing property revitalization
Maintain the practice of assisting with special planning and development efforts to promote reuse and infill for older buildings, redevelop vacant properties, and revitalize the economic opportunity areas, particularly in the Maple Avenue area and Historic Business District.

LAND USE GOALS AND POLICIES

GOAL LU 2: Maintain a standard that all new development will be consistent and compatible with the adopted Vision Statement and other policies contained in the Policy Plan and with the State of Washington's Growth Management Act to make certain reasonable measures are taken to allow for increased density and planned growth.

Policies:

LU 2.1: Maintain a practice of using the adopted land use policies and the adopted Land Use Plan maps to evaluate all annexations, subdivisions, and other land use actions and requests.

GOAL LU 3: Maintain a standard that the City will promote all new development that occurs in a manner consistent with the ability of the City and/or private persons to provide and pay for necessary street improvements, services, facilities, and utilities needed to accommodate a given intensity or density of development.

Policies:

LU 3.1: Maintain a practice of requiring as a condition of plat or development approval, the installation or upgrading of needed improvements or mandatory involvement in a future Local Improvement District.

LU 3.2: Maintain a practice that development will be served by water, sewer and power, and paved streets with curbs, gutters, sidewalks and street lights.

SINGLE-FAMILY LAND USE

GOAL LU 4: Maintain standards that develop single-family areas, which provide suitable living environments for individuals and families, which have the following characteristics: quietness, privacy, safety, and land use stability and compatibility. These areas are intended for detached single-family dwelling units.

Policies:

SF 4.1: Maintain a practice that single-family areas should coincide with defined planning areas that allow for the retention or development of stable single-family neighborhoods with individual character and identity.

SF 4.7: Maintain a practice that areas which are included in defined historic districts or which exhibit other special qualities that should be preserved and which have a single-family character should be retained as single-family areas.

- SF 4.10:** Maintain a practice that low density apartments may be allowed as conditional use in conjunction with the operation of a nursing home in single-family areas, provided: that they are used for housing or are managed care facilities and that the size of the overall operation will be on a site of three acres or more.
- SF 4.11:** Maintain a practice that senior housing be permitted in close proximity to urban centers and transportation systems.

TRANSPORTATION GOALS AND POLICIES

GOAL TR I: Maintain a standard that provides an effective roadway network with adequate capacity to meet, at the Level of Service (LOS) Standard E, the demand for travel in the City.

Policies:

- TR 1.1:** Maintain a practice that the City will require that, for all new construction and major redevelopment, adjacent rights-of-way be improved to City standards and according to the Street Plan Map.
- TR 1.2:** Maintain a practice that the City will provide safe, convenient and efficient transportation for all residents and visitors to the City. This will include improvements to existing facilities as well as extensions of transportation to new developments.
- TR 1.4:** Maintain a practice that the City will review designs of parking elements on site plans submitted through the development review and construction processes.
- TR 1.5:** Implement a practice that the City will ensure that before any new development is approved, effect on arterials will not drop below city standards.
- TR 1.6:** Implement a practice that the City will establish uniform policies and fees to ensure that traffic improvements, needed to maintain the level of service, will be funded by the benefiting property owners.

GOAL TR 4: Maintain a standard that the transportation system is adequate to serve all existing and future land uses shown on the Land Use Plan and are coordinated with the transportation plans of adjacent jurisdictions.

Policies:

- TR 4.1:** Maintain a practice that the City will review all development proposals, rezoning and vacating petitions, variance request, subdivision plats and commercial construction site plans to ensure compliance with the Transportation Element.

CAPITAL FACILITIES GOALS AND POLICIES:

GOAL CF 1: The City of Snohomish shall provide needed public facilities to all residents within its jurisdiction in a manner which protects investments in existing facilities, maximizes the use of existing facilities, and promotes orderly compact urban growth.

Policies:

CF 1.4: The City shall verify that transportation improvements are sufficient to address the fair share of transportation improvement needs created by new development.

CF 2.11: The City will identify those streets which do not meet City standards for the classification of street and detail the improvements necessary to bring these streets up to the standards adopted as part of the Public Works Design and construction standards.

POLICY PLAN IMPLEMENTATION GOALS AND POLICIES

PI 1.5: The Official Land Use Plan Map as adopted by Council is incorporated as an element of this plan and implements the Vision Statement and policies of this plan.

PI 1.6: Proposed plan amendments and requests for new development or redevelopment should be evaluated according to the following guidelines as to whether the proposed action would:

1. Contribute to a condition of public hazards;
2. Exacerbate any existing condition of public facility capacity deficits;
3. Generate public facility demands that exceed capacity in planning in the Six-Year Schedule of Improvements;
4. Conform to future land uses as shown on the future land use map of the Land Use Element;
5. Accommodate public facility demands based upon adopted LOS standards and attempt to meet specified measurable objectives, when public facilities are developer-provided;
6. Demonstrate financial feasibility, subject to this element, when public facilities are provided, in part or whole, by the City;
7. Affect state agencies' facilities plans and siting of essential public facilities; and
8. Affect significant cultural and scenic resources and critical natural area.

PI 1.7: Citizens will be encouraged to participate in all phases of the planning policy, formulation and revision phases as well as plan implementation.